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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**



41

[REDACTED]

DATE: **MAY 05 2011**

Office: PORTLAND

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the Director, Portland. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant filed a Form I-687 Application for Temporary Resident Status on March 2, 2005. On May 1, 2006, the director issued a Notice of Intent to Deny (NOID) informing the applicant that he failed to submit any evidence in support of his eligibility for legalization benefits. The director also noted that the applicant indicated on his Form I-687 that he was absent from the United States from May 10, 1987 until August 2, 1987. This absence exceeded the 45-day limit for absences during the relevant period, thereby interrupting any continuous residence that the applicant may have established. On October 5, 2006, the director denied the application noting that the applicant failed to respond to the NOID. Thus, the director indicated that the application was abandoned.

USCIS subsequently informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. The applicant was informed that he was entitled to file an appeal with AAO which must be adjudicated on the merits.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO found that that director erred in denying the application based upon abandonment. However, the AAO notes that the director denied the application based on the applicant's failure to submit any evidence in support of his continuous residence during the relevant period and his absence which exceeded the 45-day limit for a single absence, not only for abandonment.

On appeal, the applicant indicates that he remains eligible. He submits no evidence in support of his eligibility nor does he address the issues raised in the NOID.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. Given the paucity of credible evidence contained in the record and the applicant's failure to respond to the issues raised in the NOID, the appeal will be summarily dismissed.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.